

EXHIBIT A

Pitman, Ryan G.

From: Lisa Schroeder <lisa.schroeder@basf.com>
Sent: Monday, September 21, 2020 5:20 PM
To: Pitman, Ryan G.
Cc: Oliver Oswald; 'Vanessa Nichols'
Subject: RE: [EXT] Conagen

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Thank you, this is helpful. I don't think it makes sense for BASF to be requested to provide information that Conagen (a party to the litigation) could provide itself. Conagen would then be responsible for obtaining BASF's consent, to the extent required.

My limited understanding is that we are not using this technology. But perhaps part of the dispute is around what technology is in scope. Because we are not a party to the lawsuit, I really do not know what each side's position is as to what technology is at issue. If you could provide additional information as to precisely what you want to know, I'll see what is possible.

Best Regards,

Lisa K. Schroeder

Associate General Counsel

Intellectual Property Legal Department, NA

Global Services, Intellectual Property

To protect the health of its employees and their families, and to help efforts to reduce the spread of COVID-19, BASF Corporation is requiring certain personnel in North America (including me) to work from home until further notice. During this time, I can be reached at my email address and mobile number below.



Phone: +1 973.856.0880, Email: lisa.schroeder@basf.com

Postal Address: BASF Corporation, 100 Park Avenue, Florham Park, NJ, 07932, United States



From: Pitman, Ryan G.
Sent: Monday, September 21, 2020 5:12 PM
To: Lisa Schroeder
Cc: Oliver Oswald ; 'Vanessa Nichols'
Subject: RE: [EXT] Conagen

Lisa,

I think we can get the financial information from Conagen provided that BASF will consent to its disclosure by Conagen. As we discussed, Conagen/Blue Cal furnished the agreement with redactions that BASF approved. I think Givaudan is entitled to the financial terms of the agreement and documents showing payments in connection with the agreement or its subject matter, and you have the protective order.

What we would not be able to get from Conagen is information on BASF's own use/practice of the technology, if any.

Ryan

From: Lisa Schroeder <lisa.schroeder@basf.com>
Sent: Monday, September 21, 2020 4:19 PM
To: Pitman, Ryan G. <rpitman@goldbergsegalla.com>
Cc: Oliver Oswald <oliver.oswald@basf.com>; 'Vanessa Nichols' <vanessa.nichols@givaudan.com>
Subject: RE: [EXT] Conagen

ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.

Hi Ryan,

Just following up on this email – can you please let us know your thoughts? We are discussing with internal stakeholders but need this additional information.

Best Regards,
Lisa K. Schroeder
Associate General Counsel
Intellectual Property Legal Department, NA
Global Services, Intellectual Property

To protect the health of its employees and their families, and to help efforts to reduce the spread of COVID-19, BASF Corporation is requiring certain personnel in North America (including me) to work from home until further notice. During this time, I can be reached at my email address and mobile number below.



Phone: +1 973.856.0880, Email: lisa.schroeder@basf.com

Postal Address: BASF Corporation, 100 Park Avenue, Florham Park, NJ, 07932, United States



From: Lisa Schroeder

Sent: Friday, September 18, 2020 10:26 AM

To: Pitman, Ryan G. <rpitman@goldbergsegalla.com>

Cc: Oliver Oswald <oliver.oswald@basf.com>; 'Vanessa Nichols' <vanessa.nichols@givaudan.com>

Subject: RE: [EXT] Conagen

Hi Ryan,

Thank you for this summary. We are internally discussing your request and hope to have some feedback next week. Can you help me understand why it is necessary for BASF to produce this information? Why can't Conagen, as the recipient of the payments, produce this information instead? As you can imagine, we are sensitive to being unnecessarily put in the middle of a dispute that does not involve BASF.

Best Regards,

Lisa K. Schroeder

Associate General Counsel

Intellectual Property Legal Department, NA

Global Services, Intellectual Property

To protect the health of its employees and their families, and to help efforts to reduce the spread of COVID-19, BASF Corporation is requiring certain personnel in North America (including me) to work from home until further notice. During this time, I can be reached at my email address and mobile number below.



Phone: +1 973.856.0880, Email: lisa.schroeder@basf.com

Postal Address: BASF Corporation, 100 Park Avenue, Florham Park, NJ, 07932, United States



From: Pitman, Ryan G. <rpitman@goldbergsegalla.com>

Sent: Thursday, September 17, 2020 12:54 PM

To: Lisa Schroeder <lisa.schroeder@basf.com>

Cc: Oliver Oswald <oliver.oswald@basf.com>; 'Vanessa Nichols' <vanessa.nichols@givaudan.com>

Subject: [EXT] Conagen

Lisa,

Thank you for your time and the opportunity to discuss the Conagen issues this morning. As I described, Givaudan has a pending claim against Phyto Tech d/b/a Blue California ("Blue Cal") concerning certain rights provided by the BGN LLC agreement between Givaudan and Blue Cal. Givaudan asserted that counterclaim based on [REDACTED]. I have attached the answer with counterclaim from the action. I've also attached the memoranda of law pertaining to Blue Cal's motion to dismiss, as well as the protective order. As you will see, the parties avoided identifying references to BASF and redacted information identifying [REDACTED] as the subject matter.

As I described, Givaudan intends to seek (1) documents evidencing the amounts of any payments made by BASF to Conagen in connection with the [REDACTED] ("Agreement") between Conagen and BASF SE; (2) documents evidencing the amounts of any payments made by BASF to Conagen in connection with the purchase of [REDACTED]; and (3) to the extent BASF is producing or manufacturing [REDACTED] using technology licensed to it by Conagen through the Agreement, documents sufficient to describe the biosynthetic process(es) BASF is employing in such manufacturing activity. Givaudan will address with Blue Cal for the time being the issues as to the redactions to the Agreement, which we understand were made with BASF's input. Givaudan anticipates the possibility of seeking a deposition of a representative witness from BASF in connection with the topics addressed by the above anticipated document requests, but our goal remains to minimize the burden on BASF, and we hope that step won't be necessary. We failed to mention this on our call, but there are active efforts in process to resolve the BGN issues, including the issues addressed herein, amicably.

The protective order does not contain a separate "attorneys' eyes only" level of confidentiality; it provides that information designated confidential may be disclosed to (1) outside counsel, (2) in-house counsel, (3) current or former employees who are authors or recipients of a document, (4) outside experts under supervision of counsel, and (5) Court employees and reporters. See section 2(i) and section 6. For practical purposes, I think this level of confidentiality precludes disclosure of anything BASF might produce and designate confidential to anyone on our side except attorneys or consultants hired for the litigation (i.e., experts). In other words, I think it is in effect an attorneys'-only level of confidentiality. As I said, though, Givaudan would be happy to take steps with the Court to seek enhanced confidentiality protections if there is some reason BASF disagrees with our assessment of the current order.

Finally, as I stated, I intend to send Blue Cal's counsel a notice of intent to serve a subpoena to the above effect shortly. That's a procedural formality, and Givaudan is certainly open to addressing our requests for BASF documents outside of the formal litigation context.

Thank you again for your time. Please let me know if there is anything further I can provide.

Thanks,

Ryan

Ryan G. Pitman, Esq. | Partner

665 Main Street | Buffalo, NY 14203-1425

DIRECT 716.844.3454 | **EXT** 3454 | **FAX** 716.566.5401 | **MOBILE** 716.261.5314

rpitman@goldbergsegalla.com | [Biography](#)

www.goldbergsegalla.com



California | Connecticut | Florida | Illinois | Maryland | Missouri
New Jersey | New York | North Carolina | Pennsylvania | United Kingdom



Privileged attorney-client communication / attorney's work product. This email message and any attachments are confidential. If you are not the intended recipient, please immediately reply to the sender and delete the message from your email system.